

AMENDED IN SENATE MARCH 14, 2011

SENATE BILL

No. 142

Introduced by Senator Rubio

January 31, 2011

An act ~~relating to energy~~ to amend Section 739.1 of, and to repeal and add Section 739.9 of, the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

SB 142, as amended, Rubio. ~~Energy~~. *Electrical rates*.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. *Existing law requires the commission to designate a baseline quantity of electricity and gas necessary for a significant portion of the reasonable energy needs of the average residential customer, and requires that electrical and gas corporations file rates and charges, to be approved by the commission, providing baseline rates. Existing law requires the commission, in establishing the baseline rates, to avoid excessive rate increases for residential customers. Existing law requires the commission to establish a program of assistance to low-income electric and gas customers, referred to as the California Alternate Rates for Energy (CARE) program.*

Existing law revises certain prohibitions upon raising residential electrical rates adopted during the energy crisis of 2000–01, to authorize the commission to increase the rates charged residential customers for electricity usage up to 130% of the baseline quantities by the annual

percentage change in the Consumer Price Index from the prior year plus 1%, but not less than 3% and not more than 5% per year. Existing law additionally authorizes the commission to increase the rates in effect for CARE program participants for electricity usage up to 130% of baseline quantities by the annual percentage increase in benefits under the CalWORKs program, as defined, not to exceed 3%, and subject to the limitation that the CARE rates not exceed 80% of the corresponding rates charged to residential customers not participating in the CARE program.

This bill would ~~state the intent of the Legislature to enact legislation to address the lack of interregional parity of single rate structures when applied to differing climate regions~~ repeal the existing authority of the commission to increase the rates charged residential customers for electricity usage up to 130% of the baseline quantities by the annual percentage change in the Consumer Price Index from the prior year plus 1%, but not less than 3% and not more than 5% per year. The bill would require that the commission, by June 1, 2012, adjust the rates currently charged customers for electricity usage in order to, over an appropriate transition period, eliminate by no later than January 1, 2015, the current tiered residential electricity rates and adopt new rates pursuant certain ratepayer fairness and equity principles. The bill would authorize the commission to increase the rates in effect for CARE program participants subject to the limitation that the CARE rates not exceed 80% of the corresponding rates charged to residential customers not participating in the CARE program, to be phased in as determined by the commission, in order to moderate the impact on CARE program participants.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 739.1 of the Public Utilities Code is*
- 2 *amended to read:*
- 3 *739.1. (a) As used in this section, the following terms have*
- 4 *the following meanings:*
- 5 *(1) "Baseline quantity" has the same meaning as defined in*
- 6 *Section 739.*
- 7 *(2) "California Solar Initiative" means the program providing*
- 8 *ratepayer funded incentives for eligible solar energy systems*

adopted by the commission in Decision 05-12-044 and Decision 06-01-024, as modified by Article 1 (commencing with Section 2851) of Chapter 9 of Part 2 and Chapter 8.8 (commencing with Section 25780) of Division 15 of the Public Resources Code.

~~(3) “CalWORKs program” means the program established pursuant to the California Work Opportunity and Responsibility to Kids Act (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code).~~

~~(4)~~

(3) “Public goods charge” means the nonbypassable separate rate component imposed pursuant to Article 7 (commencing with Section 381) of Chapter 2.3 and the nonbypassable system benefits charge imposed pursuant to the Reliable Electric Service Investments Act (Article 15 (commencing with Section 399) of Chapter 2.3).

(b) (1) The commission shall establish a program of assistance to low-income electric and gas customers with annual household incomes that are no greater than 200 percent of the federal poverty guideline levels, the cost of which shall not be borne solely by any single class of customer. The program shall be referred to as the California Alternate Rates for Energy or CARE program. The commission shall ensure that the level of discount for low-income electric and gas customers correctly reflects the level of need.

(2) The commission may, subject to the limitation in paragraph (4), increase the rates in effect for CARE program participants for electricity usage up to 130 percent of baseline quantities by the annual percentage increase in benefits under the CalWORKs program as authorized by the Legislature for the fiscal year in which the rate increase would take effect, but not to exceed 3 percent per year.

(3) Beginning January 1, 2019, the commission may, subject to the limitation in paragraph (4), establish rates for CARE program participants pursuant to this section and Sections 739 and 739.9, subject to both of the following:

(A) The requirements of subdivision (b) of Section 382 that the commission ensure that low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures.

(B) The requirement that the level of the discount for low-income electricity and gas ratepayers correctly reflects the

1 level of need as determined by the needs assessment conducted
2 pursuant to subdivision (d) of Section 382.

3 (4) Tier 1, tier 2, and tier 3 CARE rates shall not exceed 80
4 percent of the corresponding tier 1, tier 2, and tier 3 rates charged
5 to residential customers not participating in the CARE program,
6 excluding any Department of Water Resources bond charge
7 imposed pursuant to Division 27 (commencing with Section 80000)
8 of the Water Code, the CARE surcharge portion of the public
9 goods charge, any charge imposed pursuant to the California Solar
10 Initiative, and any charge imposed to fund any other program that
11 exempts CARE participants from paying the charge.

12 (5) Rates charged to CARE program participants shall not have
13 more than three tiers. An electrical corporation that does not have
14 a tier 3 CARE rate may introduce a tier 3 CARE rate that, in order
15 to moderate the impact on program participants ~~whose usage~~
16 ~~exceeds 130 percent of baseline quantities~~, shall be phased in to
17 80 percent of the corresponding rates charged to residential
18 customers not participating in the CARE program, excluding any
19 Department of Water Resources bond charge imposed pursuant to
20 Division 27 (commencing with Section 80000) of the Water Code,
21 the CARE surcharge portion of the public goods charge, any charge
22 imposed pursuant to the California Solar Initiative, and any other
23 charge imposed to fund a program that exempts CARE participants
24 from paying the charge. For an electrical corporation that does not
25 have a tier 3 CARE rate that introduces a tier 3 CARE rate, the
26 initial rate shall be no more than 150 percent of the CARE baseline
27 rate. Any additional revenues collected by an electrical corporation
28 resulting from the adoption of a tier 3 CARE rate shall, until the
29 utility's next periodic general rate case review of cost allocation
30 and rate design, be credited to reduce rates of residential ratepayers
31 not participating in the CARE program ~~with usage above 130~~
32 ~~percent of baseline quantities~~.

33 (c) The commission shall work with the ~~public utility~~ electrical
34 ~~corporations~~ and gas corporations to establish penetration goals.
35 The commission shall authorize recovery of all administrative
36 costs associated with the implementation of the CARE program
37 that the commission determines to be reasonable, through a
38 balancing account mechanism. Administrative costs shall include,
39 but are not limited to, outreach, marketing, regulatory compliance,
40 certification and verification, billing, measurement and evaluation,

1 and capital improvements and upgrades to communications and
2 processing equipment.

3 (d) The commission shall examine methods to improve CARE
4 enrollment and participation. This examination shall include, but
5 need not be limited to, comparing information from CARE and
6 the Universal Lifeline Telephone Service (ULTS) to determine
7 the most effective means of utilizing that information to increase
8 CARE enrollment, automatic enrollment of ULTS customers who
9 are eligible for the CARE program, customer privacy issues, and
10 alternative mechanisms for outreach to potential enrollees. The
11 commission shall ensure that a customer consents prior to
12 enrollment. The commission shall consult with interested parties,
13 including ULTS providers, to develop the best methods of
14 informing ULTS customers about other available low-income
15 programs, as well as the best mechanism for telephone providers
16 to recover reasonable costs incurred pursuant to this section.

17 (e) (1) The commission shall improve the CARE application
18 process by cooperating with other entities and representatives of
19 California government, including the California Health and Human
20 Services Agency and the Secretary of California Health and Human
21 Services, to ensure that all gas and electric customers eligible for
22 public assistance programs in California that reside within the
23 service territory of an electrical corporation or gas corporation,
24 are enrolled in the CARE program. To the extent practicable, the
25 commission shall develop a CARE application process using the
26 existing ULTS application process as a model. The commission
27 shall work with public utility electrical and gas corporations and
28 the Low-Income Oversight Board established in Section 382.1 to
29 meet the low-income objectives in this section.

30 (2) The commission shall ensure that an electrical corporation
31 or gas corporation with a commission-approved program to provide
32 discounts based upon economic need in addition to the CARE
33 program, including a Family Electric Rate Assistance program,
34 utilize a single application form, to enable an applicant to
35 alternatively apply for any assistance program for which the
36 applicant may be eligible. It is the intent of the Legislature to allow
37 applicants under one program, that may not be eligible under that
38 program, but that may be eligible under an alternative assistance
39 program based upon economic need, to complete a single

1 application for any commission-approved assistance program
2 offered by the public utility.

3 (f) ~~The commission's program of~~ *commission-supervised utility*
4 *programs for providing* assistance to low-income electric and gas
5 customers shall, as soon as practicable, include nonprofit group
6 living facilities specified by the commission, if the commission
7 finds that the residents in these facilities substantially meet the
8 commission's low-income eligibility requirements and there is a
9 feasible process for certifying that the assistance shall be used for
10 the direct benefit, such as improved quality of care or improved
11 food service, of the low-income residents in the facilities. The
12 commission shall authorize utilities to offer discounts to eligible
13 facilities licensed or permitted by appropriate state or local
14 agencies, and to facilities, including women's shelters, hospices,
15 and homeless shelters, that may not have a license or permit but
16 provide other proof satisfactory to the utility that they are eligible
17 to participate in the program.

18 (g) It is the intent of the Legislature that the commission ensure
19 CARE program participants are afforded the lowest possible
20 electric and gas rates and, to the extent possible, are exempt from
21 additional surcharges attributable to the energy crisis of 2000–01.

22 *SEC. 2. Section 739.9 of the Public Utilities Code is repealed.*

23 ~~739.9.—(a) The commission may, subject to the limitation in~~
24 ~~subdivision (b), increase the rates charged residential customers~~
25 ~~for electricity usage up to 130 percent of the baseline quantities,~~
26 ~~as defined in Section 739, by the annual percentage change in the~~
27 ~~Consumer Price Index from the prior year plus 1 percent, but not~~
28 ~~less than 3 percent and not more than 5 percent per year. For~~
29 ~~purposes of this subdivision, the annual percentage change in the~~
30 ~~Consumer Price Index shall be calculated using the same formula~~
31 ~~that was used to determine the annual Social Security Cost of~~
32 ~~Living Adjustment on January 1, 2008. This subdivision shall~~
33 ~~become inoperative on January 1, 2019, unless a later enacted~~
34 ~~statute deletes or extends that date.~~

35 ~~(b) The rates charged residential customers for electricity usage~~
36 ~~up to the baseline quantities, including any customer charge~~
37 ~~revenues, shall not exceed 90 percent of the system average rate~~
38 ~~prior to January 1, 2019, and may not exceed 92.5 percent after~~
39 ~~that date. For purposes of this subdivision, the system average rate~~
40 ~~shall be determined by dividing the electrical corporation's total~~

1 ~~revenue requirements for bundled service customers by the adopted~~
2 ~~forecast of total bundled service sales.~~

3 ~~(e) This section does not require the commission to increase~~
4 ~~any residential rate or place any restriction upon, or otherwise~~
5 ~~limit, the authority of the commission to reduce any residential~~
6 ~~rate.~~

7 *SEC. 3. Section 739.9 is added to the Public Utilities Code, to*
8 *read:*

9 *739.9. (a) By June 1, 2012, the commission shall adjust the*
10 *rates currently charged customers for electricity usage in order*
11 *to, over an appropriate transition period, eliminate by no later*
12 *than January 1, 2015, the current tiered residential electricity*
13 *rates pursuant to the following ratepayer fairness and equity*
14 *principles:*

15 *(1) The current tiers of electric rates charged customers, and*
16 *the baseline usage and other factors used to set those rates, are*
17 *unfair and inequitable and must be revised to fairly and equitably*
18 *reflect the actual cost of serving those customers.*

19 *(2) The current tiers of electric rates charged customers, and*
20 *the baseline usage and other factors used to set those rates, are*
21 *unfair and inequitable and must be revised to fairly and equitably*
22 *reflect differences in climate and other factors that are outside the*
23 *control of a customer.*

24 *(3) The current tiers of electric rates charged customers, and*
25 *the baseline usage and other factors used to set those rates, are*
26 *unfair and inequitable and must be revised to fairly and equitably*
27 *provide appropriate and effective incentives to all customers to*
28 *conserve and manage their energy usage and demand equally*
29 *within a given class.*

30 *(b) The commission may, pursuant to Section 1701.1, determine*
31 *the appropriate type of proceeding to utilize in implementing*
32 *subdivision (a), and determine whether to open a new proceeding*
33 *or expand the scope of an existing proceeding. The proceeding*
34 *shall require a hearing.*

35 *(c) Upon the adoption of a decision, the commission shall report*
36 *its determination and the change to rates pursuant to subdivision*
37 *(a) to the Legislature. The report shall be submitted in compliance*
38 *with Section 9795 of the Government Code. Pursuant to Section*
39 *10231.5 of the Government Code, this subdivision is inoperative*
40 *on January 1, 2016.*

1 ~~SECTION 1.—It is the intent of the Legislature to enact~~
2 ~~legislation to address the lack of interregional parity of single rate~~
3 ~~structures when applied to differing climate regions.~~